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Attorney for Plaintiff
WAYNE BERRY

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen;	)	Civ. No. CV03 00385 SOM-LEK
	)	(Copyright)
Plaintiff,)	
	)	PLAINTIFF WAYNE BERRY'S
vs.	)	MOTION IN LIMINE TO
	)	EXCLUDE TESTIMONY OF
HAWAIIAN EXPRESS SERVICE,	)	JEFFREY KINRICH AND
INC., a California corporation; et al.	)	EVIDENCE OF AND ANY
	)	REFERENCE TO THE OPINIONS
Defendants.	)	CONTAINED IN THE SECOND
	)	SUPPLEMENTAL EXPERT
	)	REPORT OF JEFFREY KINRICH
	)	(Plaintiff No. 1)
)	
)	

**PLAINTIFF WAYNE BERRY'S MOTION IN LIMINE TO
EXCLUDE TESTIMONY OF JEFFREY KINRICH AND
EVIDENCE OF AND ANY REFERENCE TO THE OPINIONS
CONTAINED IN THE SECOND SUPPLEMENTAL EXPERT
REPORT OF JEFFREY KINRICH (Plaintiff No.1)**

Comes now Plaintiff WAYNE BERRY, by and through his attorneys, Lynch Ichida Thompson Kim & Hirota, and moves this Honorable Court for an order prohibiting Defendants from offering the testimony of Jeffrey Kinrich and making any references to, or offering any evidence concerning the opinions contained in the second supplemental expert report of Jeffrey Kinrich.

This motion is brought on the grounds that in its Minute Order the Court permitted the filing of a supplemental report of Defendants' experts if the Plaintiff filed a report addressing the newly produced evidence. The Plaintiff did not produce a supplemental report and the Kinrich Supplemental report is contrary to the Court's order.

In addition, the Defendants refuse to turn over the materials related to this report but insists that Plaintiff submit a discovery request that they will respond to in Los Angeles. This is an additional grounds for barring the Kinrich testimony.

This motion is made pursuant to Rules 401, 402 and 403 of the Federal Rules of Evidence, and is based on the memorandum of law attached hereto, the declaration in support and the records and files herein, and such other matters as may be presented to the Court at the hearing of this matter.

Dated: Honolulu, Hawaii February 22, 2006.

/s/ Timothy J. Hogan
TIMOTHY J. HOGAN
Attorney for Plaintiff WAYNE BERRY